

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 3:19-CR-299-S
	§	
NICHOLAS JOSEPH ROTUNDO	§	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

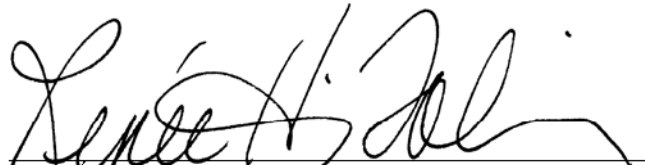
Pursuant to the order of the district judge, Doc. 8, and [28 U.S.C. § 636\(b\)](#), Defendant Nicholas Joseph Rotundo’s *Unopposed Motion for Modification of Condition of Supervised Release*, [Doc. 7](#), is before the Court for the issuance of findings and a recommended disposition.¹ By his motion, Rotundo seeks modification of a special condition of supervised release to permit his use of a computer for education purposes, averring that he is currently pursuing a master’s degree. [Doc. 7 at 1](#).

“The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7) . . . modify. . . the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release. . . .” [18 U.S.C. § 3583\(e\)\(2\)](#). One of the factors to be considered by the court under Section 3553(a) is the need “to provide the defendant with needed educational or vocational training . . . in the most effective manner.” [18 U.S.C. § 3553\(a\)\(2\)\(D\)](#). Here, the requested modification is for educational purposes, appears reasonable, and neither the Government nor the supervising probation officer object to the grant of the relief sought. [Doc. 7 at 1-2](#).

¹ Although the referral states it is for “hearing and determination,” because the motion seeks to modify a criminal judgment in a felony case, the undersigned concludes that a recommendation is appropriate.

Accordingly, it is recommended that the motion be **GRANTED**, and that the Court exercise its discretion to amend the special conditions of supervised release to permit Defendant computer access for educational purposes, with the computer monitoring conditions previously ordered remaining in full force and effect.

SIGNED, February 21, 2020.



RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of this report and recommendation will be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); FED. R. Civ. P. 72(b). An objection must identify the finding or recommendation to which objection is made, the basis for the objection, and the place in the magistrate judge's report and recommendation the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996), *modified by statute on other grounds*, 28 U.S.C. § 636(b)(1) (extending the time to file objections to 14 days).